

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1159

Introduced by Hartnett, 45

Read first time January 10, 2000

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities and villages; to amend sections
2 17-107 and 17-208, Reissue Revised Statutes of Nebraska;
3 to change provisions relating to the appointment of
4 officers; to harmonize provisions; and to repeal the
5 original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 17-107, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 17-107. (1) A mayor of a city of the second class shall
4 be elected in the manner provided in the Election Act. The mayor
5 shall be a resident and registered voter of the city. If the
6 president of the council assumes the office of mayor for the
7 unexpired term, there shall be a vacancy on the council which
8 vacancy shall be filled as provided in section 32-568.

9 (2) The mayor, with the consent of the council, may
10 appoint such officers as shall be required by ordinance or
11 otherwise required by law. Such officers may be removed from
12 office by the mayor. Except as otherwise specifically provided,
13 such officers shall hold office until the end of the mayor's term
14 of office and until their successors are appointed and qualified
15 unless sooner removed or the ordinance creating the office is
16 repealed.

17 (3) The mayor, by and with the consent of the council,
18 shall appoint such a number of regular police officers as may be
19 necessary. All police officers appointed by the mayor and council
20 shall be removable at any time by the mayor. A police officer,
21 including the chief of police, may appeal such removal or other
22 disciplinary action to the city council. After a hearing, the city
23 council may uphold, reverse, or modify the removal or disciplinary
24 action.

25 ~~(2)~~ (4) The city council shall by ordinance adopt rules
26 and regulations governing the removal or discipline of any police
27 officer, including the chief of police. The ordinance shall
28 include a procedure for making application for an appeal,

1 specifications on the period of time within which such application
2 shall be made, and provisions on the manner in which the appeals
3 hearing shall be conducted. Both the police officer and the
4 individual imposing the disciplinary action shall have the right at
5 the hearing to be heard and to present evidence to the city council
6 for its consideration. Not later than thirty days following the
7 adjournment of the meeting at which the hearing was held, the city
8 council shall vote to uphold, reverse, or modify the removal or
9 disciplinary action. The failure of the city council to act within
10 thirty days or the failure of a majority of the elected council
11 members to vote to reverse or modify the removal or disciplinary
12 action shall be construed as a vote to uphold the removal or
13 disciplinary action. The decision of the city council shall be
14 based upon its determination that, under the facts and evidence
15 presented at the hearing, the challenged removal or disciplinary
16 action was necessary for the proper management and the effective
17 operation of the police department in the performance of its duties
18 under the statutes of the State of Nebraska. Nothing in this
19 section shall be construed to prevent the preemptory suspension or
20 immediate removal from duty of an officer by the appropriate
21 authority, pending the hearing authorized by this section, in cases
22 of gross misconduct, neglect of duty, or disobedience of orders.

23 Sec. 2. Section 17-208, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 17-208. (1) The village board of trustees may appoint a
26 village clerk, treasurer, attorney, overseer of the streets, and
27 marshal.

28 (2) The village marshal, or any other police officer, may

1 request a review by the village board of his or her removal or any
2 other disciplinary action taken against him or her. After a
3 hearing, the village board may uphold, reverse, or modify the
4 removal or disciplinary action.

5 ~~(2)~~ The village board of trustees shall by ordinance
6 adopt rules and regulations governing the removal or discipline of
7 any police officer, including the village marshal. The ordinance
8 shall include a procedure for making application for an appeal,
9 specifications on the period of time within which such application
10 shall be made, and provisions on the manner in which the appeals
11 hearing shall be conducted. Both the police officer and the
12 individual imposing the disciplinary action shall have the right at
13 the hearing to be heard and to present evidence to the village
14 board for its consideration. Not later than thirty days following
15 the adjournment of the meeting at which the hearing was held, the
16 village board shall vote to uphold, reverse, or modify the removal
17 or disciplinary action. The failure of the village board to act
18 within thirty days or the failure of a majority of the elected
19 board members to vote to reverse or modify the removal or
20 disciplinary action shall be construed as a vote to uphold the
21 removal or disciplinary action. The decision of the village board
22 shall be based upon its determination that, under the facts and
23 evidence presented at the hearing, the challenged removal or
24 disciplinary action was necessary for the proper management and the
25 effective operation of the police department in the performance of
26 its duties under the statutes of the State of Nebraska. Nothing in
27 this section shall be construed to prevent the preemptory
28 suspension or immediate removal from duty of an officer by the

1 appropriate authority, pending the hearing authorized by this
2 section, in cases of gross misconduct, neglect of duty, or
3 disobedience of orders.

4 (3) The village board of trustees shall also appoint a
5 board of health consisting of three members: The chairperson of the
6 village board, who shall be chairperson, and two other members.
7 One member shall be a physician or health care provider, if one can
8 be found who is willing to serve. Such physician or health care
9 provider, if appointed, shall be the board's medical advisor. If
10 the village board of trustees has appointed a marshal, the marshal
11 may be appointed to the board and serve as secretary and quarantine
12 officer. A majority of the board of health shall constitute a
13 quorum and shall enact rules and regulations, which shall have the
14 force and effect of law, to safeguard the health of the people of
15 such village and prevent nuisances and unsanitary conditions. The
16 board of health shall enforce the same and provide fines and
17 punishments for violations.

18 (4) Except as otherwise specifically provided, The
19 appointees under subsection (1) or (3) of this section shall hold
20 office for one year unless removed by the chairperson of the
21 village board with the advice and consent of the trustees.

22 Sec. 3. Original sections 17-107 and 17-208, Reissue
23 Revised Statutes of Nebraska, are repealed.